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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,933	12/03/2001	Daniel Caron	06739-026001 / 85152-23	4257
26171	7590	06/25/2004	EXAMINER	
FISH & RICHARDSON P.C. 1425 K STREET, N.W. 11TH FLOOR WASHINGTON, DC 20005-3500			GRAHAM, MARK S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DS

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/998,933	CARON, DANIEL
Examiner	Art Unit	
Mark S. Graham	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 April 2004.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 and 19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-19 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

*Paper No(s)/Mail Date* \_\_\_\_\_

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 14, 15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christian et al. (Christian) in view of Tiitola. Christian discloses the claimed blade construct with the exception of the use of a synthetic material to form the blade element. Christian's blade element 24 is made of wood. However, as disclosed by Tiitola it is known in the art to form the blade element of a synthetic material. It would have been obvious to one of ordinary skill in the art to have formed Christian's blade element of a synthetic material in the manner taught by Tiitola as well if it was desired to make a more durable blade.

Regarding claim 15, making Christian's shank integral with the shaft would have been obvious under *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965). The examiner takes official notice that it is well known in the art that the blade and shaft portion of the hockey stick may be made integral or separable as desired.

Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 6 above, and further in view of Quigley.

As disclosed by Quigley the inner and outer layers of such blades may be formed of one or more layers as desired and the inner and outer layers need not be symmetrical. In view of Quigley's teaching it would have been obvious to one of ordinary skill in the art to have also have formed Tiitola's inner and outer layers of one

or more layers as desired (thus allowing for various different thicknesses) to tailor the specific performance characteristics of the blade as taught by Quigley.

Concerning claims 9 and 10, Tiitola teaches the foam which comprises fibers therein.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is generally known in the art that some perceive synthetic blades such as Tiitola's to be of superior construction to wood blades such as Christian's. In light of such knowledge the substitution of a synthetic blade such as Tiitola's for Christian's wooden one would have been obvious to one of ordinary skill in the art.

Concerning applicant's further argument the connection system of Tiitola is not at issue here. Tiitola has been cited solely to teach the blade as claimed by applicant.

The declarations under 37 CFR 1.132 filed 4/23/04 are insufficient to overcome the rejection of the claims based upon the rejections as set forth in the last Office action because:

As to the first point raised in the declarations the rejection is not based on the premise that Christian or Tiitola alone discloses the claimed invention.

As to the remarks in the declarations regarding the combination of references the examiner has not asserted in the motivation for combining the references that there is a suggestion to combine to "reinforce the connection". The stated motivation was simply to provide a stronger blade. Nowhere do the declarations deny nor refute this motivation. All that is further stated is that Christian does not teach using a blade other than his wood blade. Again the examiner has made no claim to the contrary. It is what the combination of references considered as a whole teach which is pertinent and for the reasons set forth previously it is the examiner's opinion that these references would have obviated the claimed invention in the eyes of the ordinarily skilled artisan.

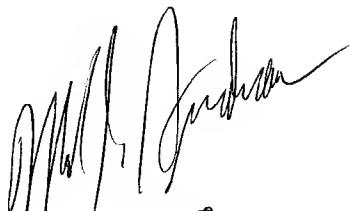
Applicant's arguments filed 4/23/04 have been fully considered but they are not persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG  
6/14/04



Mark S. Graham  
Primary Examiner